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September 14, 2004

Via Overnight Delivery

Elizabeth A. Rolando
Chief Clerk
Illinois Commerce Commission
527 E. Capitol Avenue
Springfield, IL 62701

Re: Notice of Inquiry into the need for an expedited hearings process for complaints against an alternative gas supplier where the complainant seeks a cease and desist order under Section 19-120 of the Public Utilities Act – ICC Docket No. 04-NOI-01

Dear Ms. Rolando:

Enclosed please find an original and three (3) copies of the comments of U.S. Energy Savings Corporation and Interstate Gas Supply of Illinois, Inc. in response to the Notice of Inquiry (“NOI”) in the above-referenced proceeding. In accordance with the requirements of the NOI, an electronic copy of the enclosed comments has been submitted electronically to the NOI Manager, Conrad Rubinkowski.

Thank you for your assistance in this matter.

Very truly yours,

PIPER RUDNICK

Christopher J. Townsend

CJT/ly
Enclosures

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Illinois Commerce Commission)	
On Its Own Motion)	
Notice of Inquiry into the need for an)	04-NOI-01
expedited hearings process for)	
complaints against an alternative gas)	
supplier where the complainant seeks)	
a cease and desist order under)	
Section 19-120 of the Public Utilities)	
Act)	

**COMMENTS OF USESC AND IGS
IN RESPONSE TO NOTICE OF INQUIRY**

U.S. Energy Savings Corporation (“USESC”) and Interstate Gas Supply of Illinois, Inc. (“IGS”) (collectively, the “Retail Suppliers”), by their attorneys Piper Rudnick LLP, hereby respectfully submit the following comments to the Notice of Inquiry (“NOI”) of the Illinois Commerce Commission (“Commission”) in order to provide the perspective of two existing Alternative Gas Suppliers (“AGSs”) in the Illinois natural gas market. The Retail Suppliers hope that the general guidelines provided below might assist the Commission in its development of a framework within which it can draft clear rules to govern AGSs and streamline the process for filing complaints under Article XIX of the Illinois Public Utilities Act (“Act”). However, recognizing that this is a preliminary process involving a range of interrelated and in some respects novel issues, the Retail Suppliers expressly reserve the right to take additional or different positions both in the context of this NOI proceeding and in any subsequent docketed proceeding.

INTRODUCTION

The Commission should ensure that both the rules governing the competitive natural gas market and the process for handling complaints under Section 19-120 are clearly articulated. By clearly setting forth the regulations that underlie the competitive gas market, the Commission can minimize the circumstances under which complaints would need to be brought. By committing to the adoption of a deliberate and procedurally clear process that respects the due process rights of both complainants and those against whom complaints are brought, the Commission can ensure that complaints are handled efficiently, and therefore in an expedited manner. The efficiencies associated with unambiguous rules and procedures should result in time and cost savings to all industry participants, including the Commission. Accordingly, the benefits associated with establishing an efficient process should not be limited to complaints filed against AGSs which demand a cease and desist order as a remedy. Instead, the Retail Suppliers have outlined some general guidelines which encompass similar procedural structures to those in the telecommunications article of the Act (specifically, 220 ILCS 5/13-514-16), and which would benefit competition within the Illinois natural gas marketplace.

COMMENTS

1. As a starting point, the Commission should convene a workshop to address the regulations applicable to AGSs and the procedures associated with bringing complaints. While the Commission should be commended for initiating a process to allow for formal comments, the Retail Suppliers believe that all industry participants would benefit by having a workshop in which ideas could be exchanged informally and “off the record.” Such a process has worked

well for establishing the rules and regulations in the competitive retail electric industry in Illinois.

2. The Commission should review its regulations to confirm that the obligations placed upon AGSs are clear and unambiguous. The Act and the Commission's regulations set forth guidelines within which AGSs are required to operate, in order to be in compliance with their certification. To the extent that provisions of the Act or the Commission's rules for certification and operation are unclear, (or subject to varied interpretations), such a lack of clarity increases the likelihood that AGSs could unintentionally violate a provision, despite their best intentions. The Commission should fully consider ways in which, in the normal course of business and on an ongoing basis, it can provide meaningful assurances to competitors that their operations comport with the letter and spirit of the Act and the Commission's regulations.

3. The Commission's complaint process should strive for procedural clarity. The Commission should adopt complaint procedures that unmistakably delineate the exact deadlines for each and every step of the complaint, hearing, rehearing and appeal process. Procedural certainty in the complaint process will help to ensure that each participant is confident that its due process rights are in no way threatened by any procedural uncertainty which could negatively influence a proceeding.

4. The Commission should adopt a complaint process that is capable of being expedited, regardless of the type of remedy being sought by the complainant. Establishing different complaint procedures based on the type of complaint at issue potentially could lead to gaming the rules or unnecessary procedural confusion in the resolution of a particular proceeding. Allowing all complaints to be addressed in the same manner, regardless of the remedy sought, will ensure a greater degree of consistency and efficiency for the Commission and all parties.

5. The Commission should adopt a complaint process that is capable of being expedited, regardless of the identity of the entity against whom the complaint is being brought. The Commission should recognize that given the dynamic nature of the competitive natural gas market and the various participants in that market, it is possible that the actions of other market participants will need to be addressed on an expedited basis.

6. The Commission should establish mediation and arbitration procedures into which the parties to a complaint case may voluntarily “opt-in.” Once again, the Commission’s experience in the telecommunications industry could provide guidance in developing the specific procedures.

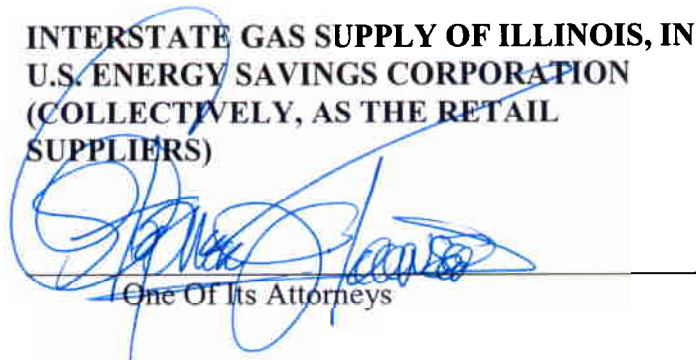
CONCLUSION

The natural gas market in Illinois is highly competitive, and a competitor suffers significant harm in the marketplace anytime it is subject to the costs and negative exposure associated with a lengthy complaint proceeding. Clearly articulated “rules of the game” will minimize the risk of inadvertent missteps by competitors. A process designed to ensure fair and efficient resolution of a complaint, regardless of the form of remedy requested or the entity against which it is brought, would appropriately limit the resources that would need to be expended by AGSs, customers, other market participants and the Commission. Such resources would be better allocated to the continued development of a vibrant natural gas market in Illinois.

Respectfully submitted,

**INTERSTATE GAS SUPPLY OF ILLINOIS, INC.
U.S. ENERGY SAVINGS CORPORATION
(COLLECTIVELY, AS THE RETAIL
SUPPLIERS)**

By:



One Of Its Attorneys

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